

# SENATE BILL No. 191

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 21-42.5.

**Synopsis:** Transparency and freedom of expression. Establishes restrictions on a state educational institution (institution) in regard to the following: (1) A student's or employee's ideological or political viewpoints or refusal to support or endorse one or more divisive concepts. (2) Requiring a student to submit or affirm a personal diversity statement. (3) Conducting any mandatory training that includes divisive concepts or taking other specified actions related to divisive concepts. (4) Exhibiting bias against or favoritism for certain individuals or groups of individuals. (5) Requiring a student group to pay fees or security deposits that are not charged to all other student groups or denying a student group access to institution property that is routinely used by other student groups. Establishes requirements for institutions regarding the following: (1) Maintaining and posting reports of violations submitted by students or employees on the institution's website. (2) Informing students and employees regarding certain restrictions and requirements to which the institution is subject and to the definition of divisive concept. (3) Conducting, posting the results of, and submitting a report to the legislative council regarding a biennial survey. (4) Posting a current syllabus for each course offered in the current semester at the institution on the institution's website. (5) Submitting the following: (A) Certain reports to the institution's chief executive officer. (B) Certain reports to the commission for higher education (commission). Provides that a student or employee of an institution who believes that an institution has violated certain restrictions on institutions may file a report of the alleged violation with the institution. Establishes requirements regarding individuals  
(Continued next page)

**Effective:** July 1, 2024.

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January 9, 2024, read first time and referred to Committee on Education and Career Development.

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## Digest Continued

employed by an institution whose primary or secondary job duties or job title includes diversity, equity, or inclusion. Allows and requires the commission to adopt rules.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

## SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 21-42.5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2024]:

4 **ARTICLE 42.5. STATE EDUCATIONAL INSTITUTIONS:**  
5 **TRANSPARENCY, OVERSIGHT, AND FREEDOM OF**  
6 **EXPRESSION**

7 **Chapter 1. Definitions**

8 **Sec. 1. The definitions in this chapter apply throughout this**  
9 **article.**

10 **Sec. 2. "Divisive concept" means a concept that:**

11 **(1) one (1) race or sex is inherently superior or inferior to**  
12 **another race or sex;**

13 **(2) an individual, by virtue of the individual's race or sex, is**  
14 **inherently privileged, racist, sexist, or oppressive, whether**  
15 **consciously or subconsciously;**

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(3) an individual should be discriminated against or receive adverse treatment because of the individual's race or sex;

(4) an individual's moral character is determined by the individual's race or sex;

(5) an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(6) an individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;

(7) a meritocracy is:

(A) inherently racist or sexist; or

(B) designed by a particular race or sex to oppress another race or sex;

(8) Indiana or the United States is fundamentally or irredeemably racist or sexist;

(9) promotes or advocates the violent overthrow of the United States government;

(10) promotes division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;

(11) ascribes character traits, values, moral or ethical codes, privileges, or beliefs to:

(A) a race or sex; or

(B) an individual because of the individual's race or sex;

(12) the rule of law does not exist but, instead, is a series of power relationships and struggles among racial or other groups;

(13) all Americans are not created equal and are not endowed by their creator with certain unalienable rights, including life, liberty, and the pursuit of happiness;

(14) governments should deny to any person within the government's jurisdiction the equal protection of the law;

(15) includes race or sex stereotyping; or

(16) includes race or sex scapegoating.

Sec. 3. "Institution" means a state educational institution.

Sec. 4. "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to members of a race or sex, because of the member's race or sex, and includes any claim that, consciously or subconsciously, and by virtue of a member's race or sex, members of a race are inherently racist or inclined to oppress others, or that members of a sex are inherently sexist or inclined to



1 oppress others.

2 Sec. 5. "Race or sex stereotyping" means ascribing character  
3 traits, values, moral and ethical codes, privileges, status, or beliefs  
4 to a race or sex, or to an individual because of the individual's race  
5 or sex.

6 Sec. 6. "Training" includes seminars, workshops, trainings, and  
7 orientations.

## 8 Chapter 2. Restrictions on State Educational Institutions

### 9 Sec. 1. An institution may not:

10 (1) penalize, discriminate against, or treat adversely a student  
11 or employee of the institution due to the student's or  
12 employee's refusal to support, believe, endorse, embrace,  
13 confess, act upon, or otherwise assent to one (1) or more  
14 divisive concepts;

15 (2) require a student or employee of the institution to endorse  
16 a specific ideology or political viewpoint to be eligible for  
17 hiring, tenure, promotion, or graduation;

18 (3) ask the ideological or political viewpoint of a student, job  
19 applicant, job candidate, or candidate for promotion or  
20 tenure; or

21 (4) require an applicant for employment or admission to:

22 (A) submit a personal diversity statement; or

23 (B) affirm the applicant's agreement with an institutional  
24 diversity statement;

25 as part of the application or admissions process.

26 Sec. 2. An individual who believes that an institution has  
27 violated section 1 of this chapter may pursue all equitable or legal  
28 remedies that may be available to the individual in a court of  
29 competent jurisdiction.

30 Sec. 3. A student or employee of an institution who believes that  
31 an institution has violated section 1 of this chapter may file a  
32 report of the alleged violation with the institution.

### 33 Sec. 4. (a) Subject to subsection (b), the institution shall:

34 (1) maintain the report filed under section 3 of this chapter;  
35 and

36 (2) post the report on the institution's website.

37 (b) An institution shall post a report under subsection (a) in a  
38 manner that complies with any state or federal privacy laws.

## 39 Chapter 3. Restriction on Divisive Concepts

### 40 Sec. 1. An institution may not:

41 (1) conduct any mandatory training of students or employees  
42 if the training includes one (1) or more divisive concepts;



(2) use training programs or training materials for students or employees if the program or material includes one (1) or more divisive concepts;

(3) use state appropriated funds to incentivize, beyond payment of regular salary or other regular compensation, an employee to incorporate one (1) or more divisive concepts into academic curricula;

(4) approve or use state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization that endorses or promotes a divisive concept; or

(5) approve or use state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization if participation in the organization requires an individual, or an individual's employer, to endorse or promote a divisive concept.

**Sec. 2. (a)** If an institution employs an individual whose primary or secondary job duties or job title includes diversity, equity, or inclusion, the following requirements apply:

(1) The individual's duties must include specific tasks and efforts to strengthen and increase intellectual diversity and individual liberty among the students and employees of the institution with divergent points of view to facilitate the free and respectful exchange of ideas.

(2) The individual shall allocate at least fifty percent (50%) of the individual's duties to:

(A) mentoring;

(B) providing academic coaching; and

(C) providing related learning support activities;

necessary for the academic success of students who are eligible to receive a federal Pell grant (as defined in IC 4-3-27-13).

(3) The individual shall document the allocation of the individual's duties to ensure compliance with subdivision (2).

**(b)** Each institution shall submit a report directly to the institution's chief executive officer regarding the actions the institution is taking to comply with this section.

**(c)** If an institution has more than one (1) campus, the report described in subsection (b) must be submitted to the institution's chief executive officer for review after the report is submitted to the chief executive officer of the campus, if applicable.

**Sec. 3.** Each institution shall notify each new student and



employee of the institution of the restrictions and requirements under IC 21-42.5-2 and the definition of divisive concepts by:

- (1) posting the information on the institution's website;
- (2) printing the information on all introductory materials provided to the new student or employee; and
- (3) providing the information in introductory meetings with the new student or employee.

Sec. 4. Each institution shall annually submit a report to the commission for higher education regarding the institution's implementation of the requirements under section 3 of this chapter in a manner and form prescribed by the commission for higher education.

#### Chapter 4. Biennial Survey

Sec. 1. Each institution shall conduct a biennial survey of the institution's students and employees to assess the campus climate with regard to diversity of thought and the respondents' comfort level in speaking freely on campus regardless of political affiliation or ideology.

Sec. 2. The institution shall publish the results of the biennial survey on the institution's website.

Sec. 3. Each institution shall biennially submit a report regarding the results of each biennial survey conducted under section 1 of this chapter to the legislative council in an electronic format under IC 5-14-6.

Sec. 4. This chapter expires July 1, 2030.

#### Chapter 5. Freedom of Expression and Transparency

Sec. 1. Except as provided in section 3 of this chapter and in addition to any requirements under IC 21-39-8, for purposes of approving or scheduling the use of an institution's property, an institution may not exhibit the following:

- (1) Bias against or favoritism for a student group that is peaceful and requests to use the institution's property in a peaceful and lawful manner.
- (2) Bias or favoritism based upon the viewpoint, race, creed, color, religion, nonviolent political ideology, or nonviolent political party affiliation of:
  - (A) a guest speaker; or
  - (B) the student sponsoring group of a guest speaker.
- (3) Bias against or favoritism for a:
  - (A) student group that; or
  - (B) guest speaker who;
 intends to maintain a peaceful campus presence and peaceful



use of the institution's property because the institution receives threatened simple breaches of the peace or nondestructive disruptions from groups or individuals who oppose the student group's or guest speaker's presence on campus.

**Sec. 2.** In addition to any requirements under IC 21-39-8, an institution may not:

- (1) require a student group to pay fees or security deposits that are not charged to all other student groups; or
- (2) deny a student group access to the institution's property if the property is routinely used by other student groups.

**Sec. 3.** Notwithstanding IC 21-39-8 and this chapter, an institution may restrict or deny use of the institution's property for public displays, organized public gatherings, or public demonstrations if the display, gathering, or demonstration would be an offense described in IC 35-49-3-2.

**Sec. 4.** In order to assess the extent to which a divisive concept may have been included or has otherwise affected curriculum, each institution shall post a current syllabus for each course offered in the current semester at the institution on the institution's website not later than seven (7) business days after the first day of class for the respective semester.

**Sec. 5.** Each syllabus published under section 4 of this chapter must include:

- (1) the title and catalog description of the course;
- (2) the course instructor's name;
- (3) the course's required or elective status for relevant majors or general education;
- (4) a brief description of each assignment, examination, lecture, discussion, or other class activity;
- (5) the title of each book that is assigned or recommended for the course, including any textbook or workbook; and
- (6) the final grades for the three (3) most recent semesters that the course was offered.

**Sec. 6.** Each institution shall provide employee training to ensure compliance with this chapter.

#### **Chapter 6. Construction and Rules**

**Sec. 1.** Nothing in this article may be construed to do the following:

- (1) Prohibit institutions from training students or employees on the nondiscrimination requirements of federal or state law.
- (2) Infringe on the rights of freedom of speech protected by





the First Amendment to the Constitution of the United States.

(3) Infringe on the rights of academic freedom of employees of institutions.

(4) Require an employee of an institution to:

(A) violate any federal or state law, rule, or regulation; or

(B) fail to comply with any applicable academic accreditation requirement.

(5) Prohibit an individual who provides training from responding to questions regarding one (1) or more divisive concepts if the response does not endorse or advocate for a divisive concept.

(6) Prohibit institutions from promoting diversity, equity, and inclusion provided that the promotion is consistent with this article.

**Sec. 2.** In order to assess the extent to which learning outcomes may have been affected by the inclusion of a divisive concept in the student learning experience, the commission for higher education may adopt rules under IC 4-22-2 to require each institution to submit data and information requested by the commission for higher education in a standardized format to allow the commission for higher education to provide an online organized data compilation that details the following:

(1) The number of students who completed a program at the institution in the immediately preceding three (3) academic years, disaggregated by underserved minority students.

(2) The following regarding the students identified in subdivision (1):

(A) The results, if available, on a nationally recognized assessment that assesses a student's readiness for postsecondary education.

(B) The final grade point average of the students identified in subdivision (1).

**Sec. 3.** (a) The commission for higher education shall adopt rules under IC 4-22-2 to implement this article.

(b) The rules adopted under subsection (a) must do the following:

(1) Establish a process by which a person may file a report with an institution under IC 21-42.5-2.

(2) Require each institution that receives a report under IC 21-42.5-2 to investigate the report.

(3) Create a corrective action plan for an institution that determines:



- 1           (A) after the institution's investigation, a violation of  
2           IC 21-42.5-2; or  
3           (B) any other violation of this article;  
4           has occurred.  
5           (4) Create reporting requirements regarding:  
6           (A) reports filed under IC 21-42.5-2;  
7           (B) the subsequent investigations concerning the reports  
8           described in clause (A); and  
9           (C) any corrective action plans created for an institution as  
10          described in subdivision (3).

